

**Notice of Allowability**

Application No.

10/629,888

Examiner

Taylor Victor Oh

Applicant(s)

BARTLEY ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/16/07.
2. ☒ The allowed claim(s) is/are 1-15 and 17-18, renumbered as claims 1-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>8/1/07</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                       |
|  | 9. <input type="checkbox"/> Other _____.   |

The finality of the previous Office Action has been withdrawn due to applicants' agreement among the supervisors: Yvonne Eyler and Janet Andres, and the examiner regarding the addition of the specific catalyst from the specification into claims 1 and 17 and the deletion of the claims 19-32 and 34-35 from the claim section, which can be further filed in the subsequent continuation application.

#### Examiner's Amendment and Reasons of Allowance

##### The Status of Claims

Claims 1-15,17-18 are pending.

Claims 1-15,17-18 are allowed.

Claims 19-32 and 34-35 are cancelled.

I. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with an attorney of record, Mr. Thomas Ladd on 8/1/07.

The introduction of the phrase “ a catalyst comprising alkali carbonates, alkali bicarbonates and caustic alkalis” into the claims 1 and 17 has been recited from the specification (see page 10 , paragraph # 0023).

II. The application has been amended as follows:

In claim 1 , line 8, on page 2 (amendment filed on 08/08/2005):

The phrase “ -- a catalyst --” is replaced with “ a catalyst comprising alkali carbonates, alkali bicarbonates and caustic alkalis” after the term “ and ”.

In claim 17 , line 8, on page 4 (amendment filed on 08/08/2005):

The phrase “ -- a catalyst --” is replaced with “ a catalyst comprising alkali carbonates, alkali bicarbonates and caustic alkalis” after the term “ and ”.

Claims 19-32 and 34-35 are cancelled.

III. The following is an examiner's statement of reasons for allowance:

The rejection of Claims 1-15 and 17-18 under 35 U.S.C. 112, first paragraph, has been withdrawn due to the modification of the claims in the amendment.

The rejection of Claims 1,15,19, 32, and 34 are rejected under 35 U.S.C. 112, second paragraph, has been withdrawn due to applicants' convincing arguments in the amendment.

The rejection of Claims 1-8, 17,19, 24-25,27,31, and 34 under 35 U.S.C. 102(b) as being anticipated clearly by Spatz et al (I & EC Product Res. and Dev. 8, no. 4 , 1969, p. 381-391) has been withdrawn due to the modification of the claims in the amendment.

The close prior art to the current invention are Spatz et al (I & EC Product Res. and Dev. 8, no. 4 , 1969, p. 381-391) and Hill et al (U.S. 5,637, 757).

Spatz et al does disclose the reaction step that favors partial esterification over complete esterification to form a tetrabromophthalate half-ester intermediate mixture as well as another step that favors decarboxylation over esterification under specific reaction temperatures.

Hill et al expressly has disclosed the method of preparing tetrabromobenzoate esters from tetrabromophthalic anhydride in the presence of sodium carbonate decarboxylation catalyst.

However, the instant invention differs from the prior art in that there is a specific pre-heating step prior to adding the decarboxylation catalyst; furthermore, there is an unexpected

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result regarding the yield and color differences between the batch prior art process (73.31 %) and the claimed process (90.22 %) in the specification (see page 18, table 2).

Therefore, the claimed invention would not have been obvious to the person with an ordinary skill in the art in view of the unexpected result.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning the communication after allowance such as sending all post-allowance correspondence should be directed to " Box Issue Fee" or faxed directly to PUBS at 703-305-8755. This will expedite the process of these papers.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
TAYLOR VICTOR OH  
PRIMARY EXAMINER

8/2/07